IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 15065 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

HARSHADKUMAR RANCHHODBHAI VALA - Petitioner(s)

Versus

PRESIDENT/MANTRISHRI & 3 - Respondent(s)

==========

Appearance :

MR AJ SHASTRI for Petitioner No(s).: 1.
MR DC DAVE for Respondent No(s).: 1,2.
MR DIPEN DESAI, AGP for Respondent No(s).: 3.

==========

CORAM :HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date : 04/07/2005

ORAL JUDGMENT

RULE. Mr.D.C.Dave, learned advocate waives service of notice of rule on behalf respondents No.1 and 2 and learned AGP, Mr.Desai, waives service of notice of rule

on behalf of respondent No.3. With the consent of the parties, the matter is taken up for final hearing today.

By filing this petition, the petitioner has challenged the order passed by DEO, Bhavnagar on 3-6-2004, which is at Annexure-K, page 50 of the compilation. By the aforesaid order, the DEO, Bhavnagar, has not accepted the request of the management for giving approval to the petitioner's appointment.

The petitioner was appointed as a Junior Clerk in the respondent No.1 and 2 institution. Earlier, the petitioner has approached the Gujarat Secondary Education Tribunal by way of Application No.34/1995. The grievance of the petitioner before the tribunal was that even though he was appointed in accordance with rules and even though the DEO had earlier given approval to his appointment, he was not paid his salary. The tribunal by its order dated 17th March, 2004, disposed of the said application with a direction to the DEO, Bhavnagar, to render his decision about the approval to the appointment of the applicant-clerk. The DEO was directed that after making appropriate scrutiny and after going through the entire record, he should pass reasoned order in accordance with rules. The tribunal also directed that if such decision is against any of the parties, such party can challenge such decision before appropriate forum in accordance with rules. On the basis of the tribunal's order, a very cryptic order is passed by the DEO on 3-6-

2004. It seems that DEO has merely incorporated the lines from the tribunal's order that he has gone through the entire record and the proposal is rejected. It is clear that DEO has not applied his mind at all by giving reasoned order and in a perfunctory manner he has disposed of the proposal of the management. As the petitioner is the ultimate sufferer, he has approached this Court challenging the aforesaid cryptic order of the DEO, Bhavnagar.

Unfortunately, the DEO has not cared to go through the directions given by the tribunal and the order in question is passed without proper application of mind, as no reasons are given in the impugned order. The approach of the DEO in deciding the matter in such a casual manner is deprecated. Since no reasons are given by DEO, it is not possible for this Court to come to the conclusion that on what basis the proposal of the management is rejected by DEO. The DEO has shown very little respect to the observations made by the tribunal while deciding the application of the management. Mr.Desai, learned AGP has assured the Court that if the matter is sent back, the DEO will appropriately consider the matter and will give appropriate reasons while deciding the proposal of the management.

Considering the aforesaid aspect of the matter, order of DEO, Bhavnagar is quashed and set aside. The matter is sent back to DEO, Bhavnagar, to decide the

proposal of the management for giving approval to petitioner's appointment. The DEO, Bhavnagar, is directed to give hearing to petitioner as well as the management and after hearing the concerned parties, the DEO, Bhavnagar, shall pass appropriate reasoned order, instead of dealing with it in a casual and perfunctory manner. Accordingly, this matter is sent back to DEO, Bhavnagar, to decide the proposal of the management. The DEO, Bhavnagar, shall decide the matter again in light of the observations made by the tribunal in its order. The DEO, Bhavnagar, shall decide the matter afresh as indicated above, on or before 31st August, 2005.

Accordingly, this petition is allowed. Rule is made absolute. No costs.

Writ to be sent to the DEO, Bhavnagar, forthwith.

(P.B.MAJMUDAR, J.)

/malek